

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

TAMMY K. CRAWFORD,

Plaintiff,

vs.

JO ANNE B. BARNHART,  
Commissioner of Social Security  
Administration,

Defendant.

Case No. 05-CV-401-FHM

**ORDER**

Counsel has filed a Motion for Attorney Fees Pursuant to 42 U.S.C. § 406(b) [Dkt. 22] and Motion to Hold in Abeyance [Dkt. 23].

Counsel seeks an award of attorney fees pursuant to 42 U.S.C. § 406(b). In a similar case this Court has held that the statute provides no basis for the fee award requested. See *(Terry) Hill v. Barnhart*, Case No. 99-CV-1090-FHM. That case and several others are on appeal to the Tenth Circuit and are awaiting decision. It is likely that the Tenth Circuit decision in the pending appeals will be dispositive of the motion for fees in this case. Counsel represents that Defendant has no objection to Counsel's motion, but reserves the right to further plead or respond.

Based on the foregoing, the undersigned finds that Counsel's Motion to Hold in Abeyance [Dkt. 23] should be and is hereby GRANTED, as follows.

Counsel's Motion for Attorney Fees pursuant to 42 U.S.C. § 406(b) is held in abeyance to allow the Tenth Circuit Court of Appeal sufficient time to rule on the pending appeals. Within 30 days of receiving notice of a decision in any one of the pending appeals related to fee requests under 42 U.S.C. § 406(b), Plaintiff's Counsel is required to notify

this Court and Defendant of the Tenth Circuit decision. At that point the Court will set a schedule for Defendant's response. This Order does not address Counsel's request to file an amended motion or any other issue raised in Counsel's filing.

SO ORDERED this 9<sup>th</sup> day of May, 2006.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE